

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

AIMEE SILVER,  
Plaintiff,

v.

GREYSTAR REAL ESTATE PARTNERS,  
LLC, et al.,  
Defendants.

Case No. [21-cv-00698-SI](#)

**ORDER GRANTING PLAINTIFF'S  
MOTION TO COMPEL**

Re: Dkt. No. 31

Pursuant to Federal Rule of Civil Procedure 45, plaintiff Aimee Silver moves the Court to compel compliance with a subpoena which she properly served on non-party Terminix International on June 21, 2021. Dkt. No. 31. The Court finds that this matter is appropriate for determination without oral argument, pursuant to Local Rule 7-1(b), and VACATES the hearing set for January 7, 2022. For the reasons discussed below, the Court **GRANTS** the motion.

The subpoena required Terminix to produce records which detail pest control methods used at the residential property previously inhabited by plaintiff, including what presides, baits, gels, and other pest control methods were used, when they were used, where they were used, why and how much. *Id.* at 2. State law imposes detailed record-keeping requirements on “[a]ny person engaged for hire in the business of pest control.” 3 Cal. Code. Regs. § 6624. Terminix failed to produce the records by July 9, 2021—the deadline set by the subpoena.

Instead, Terminix informed plaintiff’s counsel on August 13, 2021 that its third-party record custodian experienced a technical issue rendering the responsive records inaccessible. Dkt. 31-1 at 13. Terminix did not offer an estimated date as to when the records would be recovered. Dkt. No. 31 at 6. Then on September 22, 2021, Terminix produced 61 documents which plaintiff believes are “in no way a complete response” to the subpoena. *Id.* Plaintiff’s counsel continued to request

1 responsive documents through October, and eventually submitted a unilateral discovery letter brief  
2 to this Court on November 3, 2021. *Id.* at 7; Dkt. No. 29. Plaintiff then filed the present motion to  
3 compel on November 19, 2021 and properly noticed a hearing for January 7, 2022.

4 Plaintiff's counsel properly served non-party Terminix with the motion to compel on  
5 November 22, 2021. Dkt. No. 32 (Proof of Service). Further, plaintiff's counsel represents that on  
6 November 19, 2021 he sent a copy of the motion by e-mail to the Terminix representative with  
7 whom he had been communicating. Terminix' response was due on December 3, 2021, but  
8 Terminix failed to file a response. Based on the declaration and attachments submitted by plaintiff's  
9 counsel, the Court finds Terminix has engaged in ongoing delays, has failed to proffer any updates  
10 on the operation of its third-party records custodian, and has failed to explain why it was able to  
11 produce some—but not all—of the responsive documents. The Court **GRANTS** plaintiff's motion  
12 to compel and orders the production of responsive documents within 15 days.

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14 **IT IS SO ORDERED.**

15 Dated: January 3, 2022

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SUSAN ILLSTON  
United States District Judge